

Reference

- (1) May W F. *The physician's covenant*. Louisville, Kentucky USA: The Westminster press, 1983.

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Biomedical ethics reviews 1994: allocating health care resources

Edited by James M Humber and Robert F Almeder, Totowa, New Jersey, Humana Press, 1995, 223 pages, \$44.50 hard cover

Allocating Health Care Resources is a collection of eight essays written mostly by philosophers. This is the twelfth annual volume of *Biomedical Ethics Reviews*. It addresses various issues surrounding the allocation of health care from the American perspective. The aim of the series is 'to review and update the literature on issues of central importance in bioethics today'. Consequently, the reader should not expect important new questions to be raised or old questions to be covered in new or persuasive ways. But each essay touches upon a number of important issues associated with the allocation of scarce health care resources. The emphasis is on breadth, not depth.

The essays are generally thoughtful and engaging. One of my favourites is George Rainbolt's essay, 'An evaluation of Clinton's health care proposal'. It was written in February 1994, prior to the castration of Clinton's health care reforms. Although it addresses a proposal that has changed considerably, it remains a careful and illuminating examination of the reasons why the cost of health care is so high in the US and what can be done about it. Rainbolt locates the problem in market failure due to: health insurance (which reduces consumers' incentive to care about costs); fee-for-service payment (which give providers an incentive to increase costs); asymmetries of knowledge between consumers and providers; the tax break for health insurance; high administrative costs, and the existence of a closed physician cartel.

More theoretical is Madison Powers's chapter, 'Hypothetical choice approaches to health care allocation'. The most well-known example of this

kind of approach is Rawls's procedure, whereby rational self-interested agents choose principles of distribution of social goods from behind a veil of ignorance. But this approach has also been appealed to by utilitarians such as John Harsanyi, and more recently in relation to the distribution of health care by Norman Daniels, Paul Menzel and others. Powers begins by considering the elements common to all hypothetical approaches: counterfactual choice; degree of uncertainty; motivational assumptions, and procedural devices. He then explores some of the difficulties associated with the primary models of Rawls and Harsanyi, Daniels's prudential planner model and the Comparative Benefits Modeling Project. Powers remains sceptical of the place of hypothetical approaches: in particular, they lack action-guidingness because they exclude any reliance on a particular conception of the good. A good chapter dealing with an important issue.

'Rationing, rhetoric and rationality: a review of the health care rationing debate in America and Europe' begins with a discussion of the concept of rationing from the American and European perspectives. The Americans take rationing to be the non-market allocation of resources while the Europeans take it to be denying people medically necessary care. Baker examines the European account based on medical need. He provides a useful division of four kinds of need: expert determination of what constitutes need (England, Canada); community negotiation (Oregon); individual negotiation, and patient demand. This approach is applied to the American health care debate as of March 1994. He closes with an overview of some of the philosophical approaches to rationing, including those of Ronald Dworkin, Norman Daniels, and E Haavi Morim and briefly discusses other methods of rationing: lottery, triage, excusing and justifying principles and Quality Adjusted Life Years – QALYs.

I looked forward with anticipation to Jeffrey Kahn's 'Sin taxes as a mechanism of health care finance: moral and policy considerations'. I hoped for a saucy justification or rejection of the taxes, but found a workmanlike exploration of the issues and an ambiguous conclusion. Kahn argues that it is justifiable to tax smokers so they pay for the excess costs of their habit (pay their way). Taxation past the break-even point, he argues, must appeal to arguments about the

desirability of discouraging 'unhealthy' behaviours and the social good that can be achieved with the revenue. While the alleged subject is 'sin tax', virtually the whole essay is concerned with 'cigarette' taxes. For those who are unfamiliar with the area, Kahn provides a useful review.

Following their successful past formula, the editors have juxtaposed two essays arguing for opposite claims: Richard Lamm's 'Better health care through rationing' and White and Waithe's 'The ethics of health care rationing as a strategy of cost containment'. Lamm, the former Governor of Colorado, gives a passionate, from the pulpit, call to ration resources. He argues that it's inevitable, but it's not such a bad thing – we will become more efficient. On the contrary, White and Waithe argue, we are not spending too much on health care, but nonetheless costs can be reduced in other ways. Philosophically, this is one of the most problematic of the pieces. White and Waithe's claim that rationing amounts to an assault on autonomy appears to misunderstand the relationship between autonomy and justice. Their use of 'discrimination' appears too broad, and fails to differentiate discrimination from the use of a material principle of justice. However, both pieces make explicit claims worthy of consideration. I enjoyed both.

In one of the more radical and difficult chapters, 'Health care allocation: a deflationary account', John Douard rejects biomedical models of distribution, which identify health care with personal medical services. He argues that health is influenced by many social factors, of which personal medical care is only one. He builds on the social model of health and disease advocated by Evans and Stoddart. Douard's preferred social model of health care relates health care to well-being (as capabilities and functionings) and positive freedom. The deflationary account of health care involves letting 'the health care system respond to those aspects of health status that are defined as disease by the medical community, but increas[ing] resources for those social problems that seriously jeopardize people's health'.

In 'The injustice of age bias against children in allocating health care', Kopelman illustrates how children are treated by current allocation systems from the perspective of utilitarian, egalitarian, libertarian and contractarian theories of justice.

The strength of this book is the diversity of topics covered. Readers

can expect to achieve a view of how vast this landscape is. There is a good coverage of the relevant literature and, having read the volume, readers can expect to see better which of the many roads confronting them is likely to deal with the particular issues that interest them.

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GenEthics: technological intervention in human reproduction as a philosophical problem

Kurt Bayertz, Cambridge,
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When faced with questions about the morality of genetic research, some scientists take refuge in discussing merely the feasibility of certain procedures. For example, following a lecture in which Nobel prizewinner James D Watson had defended the morality of offering genetic manipulation of embryos if a gene for homosexuality were to be discovered, one scientist remarked to me that the proper answer to the question was that the trait of homosexuality could not be governed by a single gene, hence it would never be possible to manipulate embryos in order to remove the characteristic. Watson had at least given *his* answer to the *ethical* question, and it was an answer which relied upon the principle of the individual's right to choose – in this case the potential parents' right to choose the nature of their offspring.

In *GenEthics*, Kurt Bayertz maintains that we have to think about the ethical issues surrounding genetic research *before* we are capable of carrying out the scientific procedures, and that we do not yet possess norms for dealing with these issues: 'Modern gene and reproduction technology has provided us with practical options which we are unable to evaluate using traditional norms and values' (page 303).

Moreover, the missing norms and values are not there waiting to be discovered – 'With the help of GenEthics, we have to create them' (page 188).

This quotation reflects the Sartrean flavour of Bayertz's views. He rejects

what he calls 'substantialism' – the view that 'there exists a *human substance* which must be regarded as the epitome of the psycho-physical unity of the human being' (page 129), and which should be respected as holy, hence protected from interference by gene and reproduction technology. Basing ethical principles on human nature is impossible, because, since human nature changes over time, it cannot be precisely defined, and even if it could, it would be impermissible to conclude that we *ought* to treat it in such and such a way simply because it *is* of such and such a nature. What we must do instead is focus on subjectivity – 'the human ability to distance oneself from one's environment' (page 204). Because we are rational, self-determining beings capable of controlling nature, we must take responsibility for decisions to change, or to fail to change, our own nature. The fundamental significance of human autonomy requires that 'only subjectivism can be accepted as the philosophical basis for a publicly binding GenEthics' (page 306). Nevertheless, the autonomy of potential parents is not to be given free rein in decisions about the genetic manipulation of embryos, since the individual principally affected is not yet autonomous. Its future autonomy must therefore be protected.

Bayertz's principal recommendations are as follows: individuals should be free to decide the number of children they have and the way in which they are conceived; this freedom does not include a licence to carry out genetic manipulation at will – 'A line has to be drawn at the point where technological intervention restricts the child in its right to self-determination and prejudices its course through life' (page 311); any intervention must be unequivocally in the interests of the individual on whom it is carried out, and interventions are permissible only if they have a therapeutic objective. Bayertz acknowledges the problems of definition associated with this final criterion – there may be individual cases where it is difficult to decide whether a characteristic should be classified as a disease. But this criterion would give some ammunition to anyone wanting to challenge Watson's view that there should be no constraint on parental choice.

Bayertz's conclusions are commendable. Yet it is not clear that they have not been, or could not be,

derived from norms and values to which we already adhere. Respect for autonomy, tempered with concern for well-being, is already part of the currency in discussions in medical ethics. Moreover the theoretical assumptions behind the exercise can be questioned. How would it be possible to invent values? Surely values must be grounded in some aspects of human nature, and there are signs that Bayertz himself accepts this – in his rejection of hedonism as a guiding principle, and in his insistence on the centrality of subjectivity. Perhaps he *could* maintain that values are being invented if his recommendation were merely that ethical principles are to be determined by agreements arising from the free exercise of subjectivity. But he wants to impose constraints upon what is permissible in the area of genetic manipulation. For example, even if the free exercise of subjectivity reached agreement that genetic manipulation were permissible for non-therapeutic purposes, he would not endorse this 'invented' value.

The density of argument and the presentation of a variety of positions sometimes make it difficult to see exactly which view is Bayertz's own. For example, on page 215 he says: 'Human nature *can* therefore be worthy of protection, but it is not necessarily so: not when it restricts subjectivity, and obstructs its free unfolding'.

This appears to set up a false dichotomy which Bayertz later rejects: 'A strict separation of human subjectivity and human nature is actually only possible for analytical purposes; the real human being is not half "subject" and half "a part of nature"' (page 294).

This is a long and detailed book, peppered with quotations, some of which are from writers with whom a British readership may be unfamiliar. Hence it is difficult for this reviewer to set Bayertz's book in its proper context. There is much interesting detail on the history of ideas – ideas concerning degeneration, eugenics, and conceptions of human nature – though it is not always clear what role certain digressions play in the overall argument. As a work of moral philosophy, the book deserves a more detailed analysis than is possible in this short review.

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